IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS DALLAS DIVISION

ADVANCED PHYSICIANS, S.C.,	§
	§
Plaintiff,	§ CIVIL ACTION NO. 3:16-CV-2355-G
	§
VS.	§
	§
CONNECTICUT GENERAL LIFE	§
INSURANCE COMPANY; CIGNA	§
HEALTH AND LIFE INSURANCE	§
COMPANY; CIGNA HEALTHCARE	§
MANAGEMENT, INC.; GREAT-WEST	§
HEALTHCARE-CIGNA; and NFL	§
PLAYER INSURANCE PLAN,	§
	§
Defendants.	§

DEFENDANTS' JOINT MOTION FOR SUMMARY JUDGMENT

Defendants Connecticut General Life Insurance Company, Cigna Health and Life Insurance Company, Cigna Healthcare Management, Inc., and Great-West Healthcare-Cigna (collectively, "Cigna") and NFL Player Insurance Plan ("Plan," together with Cigna, "Defendants") file this brief in support of their motion for summary judgment on all claims asserted by Plaintiff Advanced Physicians, S.C. ("Advanced").

I. SUMMARY OF MOTION

Advanced filed this case seeking payment of benefits under the NFL Player Insurance Plan. Discovery in this case is now closed, and as set forth more fully in the Brief in Support of Defendants' Joint Motion for Summary Judgment, the undisputed evidence before the Court establishes that Defendants are entitled to summary judgment against all claims asserted by Advanced for the following reasons:

• Advanced lacks standing to maintain claims for benefits on behalf of the Plan participants with respect to whom Advanced lacks a valid assignment of benefits;

- Advanced failed to exhaust the administrative remedies under the Plan;
- Advanced's failure to exhaust the administrative remedies under the Plan is not excused for any reason;
- Cigna's decision, as the claims administrator under the Plan, to deny the claims for benefits submitted by Advanced is based upon a legally correct interpretation of the plan, is not an abuse of discretion, and is supported by substantial evidence:
- Advanced cannot seek or recover penalties under ERISA or the other alleged elements of damages Advanced seeks in this case.

In accordance with Local Rule 56.3(b), the elements of the specific claims and defenses on which Defendants seek summary judgment are set forth in detail in the Brief in Support of Defendants' Motion for Summary Judgment, which is filed contemporaneously with this Motion and is incorporated herein by reference.

II. SUMMARY JUDGMENT EVIDENCE

Defendants' Motion for Summary Judgment is supported by the evidence included in the Appendix in Support of Defendants' Motion for Summary Judgment, which is filed contemporaneously with this Motion and is incorporated herein by reference.

III. PRAYER FOR RELIEF

For the reasons set forth herein and in the Brief in Support, Defendants respectfully request that the Court award Defendants summary judgment as to all of Advanced's claims and award Defendants such other and further relief to which they may be justly entitled, including their attorneys' fees under 29 U.S.C. § 1132(g)(1).

Respectfully submitted,

HOLLAND & KNIGHT LLP

s/Eliot T. Burriss

Eliot T. Burriss
State Bar No. 24040611
eliot.burriss@hklaw.com
200 Crescent Court, Suite 1600
Dallas, Texas 75201
(214) 964-9500
(214) 964-9501 (facsimile)

ATTORNEY FOR DEFENDANTS CONNECTICUT GENERAL LIFE INSURANCE COMPANY, CIGNA HEALTH AND LIFE INSURANCE COMPANY, CIGNA HEALTHCARE MANAGEMENT, INC., AND GREAT-WEST HEALTHCARE-CIGNA

Stacey R. Eisenstein (admitted pro vice) seisenstein@akingump.com
Nathan Oleson (admitted pro hac vice) noleson@akingump.com
Eric D. Field (admitted pro hac vice) efield@akingump.com
AKIN GUMP STRAUSS HAUER & FELD LLP
2001 K Street, NW
Washington, D.C. 20006
(202) 887-2414 (telephone)
(202) 887-4288 (facsimile)

J. Eric Gambrell
State Bar No. 00790735
egambrell@akingump.com
AKIN GUMP STRAUSS HAUER & FELD LLP
2300 N Field Street
Suite 1800
Dallas, TX 75201
(214) 969-2799 (telephone)
(214) 969-4343 (facsimile)

ATTORNEYS FOR DEFENDANT NFL PLAYER INSURANCE PLAN

CERTIFICATE OF SERVICE

I hereby certify that on September 21, 2020, a true and correct copy of the foregoing document was served by electronic transmission through the Court's Case Management Electronic Case Filing system.

s/Eliot T. Burriss
Eliot T. Burriss